

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

August 12, 2003
7:30 p.m. - Council Chambers
5300 Belt Line Road

Present: Councilmembers Chow, Hirsch, Mallory, Niemann, Silver, Turner
Absent: Mayor Wheeler

Item #R1 – Consideration of Old Business

The following employees were introduced to the Council: Scott Guenther (Visitor Services), Paul Jackson (Parks) and Robert McCluskey (Fire).

Ron Whitehead, City Manager, announced the following upcoming events: Interviews will begin to fill the Assistant to the City Manager position; progress report of the Arts and Events District; and Oktoberfest advertisement by Pepsi on radio and television spots and on diet Pepsi cans.

Item #R2 – Consent Agenda

Item #2a – Approval of the Minutes for the June 24, 2003, July 1, 2003, July 7, 2003 and July 26, 2003 Council work sessions and meetings. (Approved as written)

Item #2b – Approval of a 9-1-1 billing agreement with Excel Communications, which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2c – Approval of a 9-1-1 billing agreement with Rosebud Communications, which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2d – Approval of a 9-1-1 billing agreement with American Fiber Network, Inc., which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2e – Approval of a 9-1-1 billing agreement with NTS Communications, Inc., which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2f – Approval of a 9-1-1 billing agreement with Capital Communications, Inc., which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2g – Approval of a 9-1-1 billing agreement with 1-800-RECONEX, Inc., which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2h – Approval of a 9-1-1 billing agreement with Navigator Telecommunications, which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2i – Approval of a 9-1-1 billing agreement with PhoneSense, which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2j – Approval of a 9-1-1 billing agreement with Eureka Broadband, which has a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

#2k – Consideration of a Resolution authorizing the City Manager to enter into a contract in the amount of \$29,859.75 with BTA Services for the installation of pavement markings in various locations throughout the Town. (Approved) (R03-076)

Councilmember Mallory moved to duly approve the above items. Councilmember Turner seconded. The motion carried.

Voting Aye: Chow, Hirsch, Mallory, Niemann, Silver, Turner

Voting Nay: None

Absent: Wheeler

Item #R3 – Presentation of the Distinguished Budget Presentation Award to the Town of Addison from Government Financial Officers Association.

Mayor Pro Tempore Silver presented the Distinguished Budget Presentation Award to Randy Moravec, Finance Director of the Town of Addison.

Item #R4 – Appointment of a Member to the Board of Zoning Adjustment.

Mayor Pro tempore Silver nominated Charles Martin as a member to the Board of Zoning Adjustment. Councilmember Mallory moved to appoint Charles “Chick” Martin as a member of the Board of Zoning Adjustment. Councilmember Turner seconded.

Voting Aye: Chow, Hirsch, Mallory, Niemann, Silver, Turner

Voting Nay: None

Absent: Wheeler

Item #R5 – **PUBLIC HEARING** and consideration of an Ordinance approving a Special Use Permit for the sale of alcoholic beverages for on-premises consumption, Sidewalk Café', located at 5030 Addison Circle (currently Café' Casablanca), on application from Mr. Sam Hilton.

Mayor Pro Tempore Silver opened the meeting as a public hearing. There were no questions or comments. Mayor Pro Tempore Silver closed the meeting as a public hearing.

Councilmember Mallory moved to duly pass Ordinance No. 003-019 approving a Special Use Permit for the sale of alcoholic beverages for on-premises consumption, Sidewalk Café', located at 5030 Addison Circle (currently Café' Casablanca), subject to the following condition.

1. The applicant/operator shall not use any terms (such as "bar", "tavern", etc.) or graphic depictions which relate to alcoholic beverages in any exterior signs.

Councilmember Niemann seconded. The motion carried.

Voting Aye: Chow, Hirsch, Mallory, Niemann, Silver, Turner

Voting Nay: None

Absent: Wheeler

Upon the entrance of Mayor Wheeler, Mayor Pro Tempore Silver turned the presidency of the council meeting over to Mayor Wheeler.

Item #R6 – **PUBLIC HEARING** and consideration of an Ordinance approving a Special Use Permit for a convenience store in a Planned Development District (001-002), 7-Eleven Inc., located at 4980 Belt Line Road, Suite 100, on application from The Dimension Group, represented by Mr. Mostafa Setayesh.

Mayor Wheeler opened the meeting as a public hearing. There were no questions or comments. At the applicant's request, the public hearing on this item will continue until the August 26, 2003 Council meeting at 7:30 p.m.

Item #R7 – **PUBLIC HEARING** and Consideration of an Ordinance approving an amendment to an existing Special Use Permit for a restaurant and an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, (formerly Lombardi Mare), located at 5100 Belt Line Road, Suite 410, on application from Mr. Marc Kislak.

Mayor Wheeler opened the meeting as a public hearing. Susan Kedron, attorney with Jackson and Walker spoke on behalf of the applicant. There was no other questions or comments. Mayor Wheeler closed the meeting as a public hearing.

Councilmember Niemann moved to duly pass Ordinance No. 003-020 approving an amendment to an existing Special Use Permit for a restaurant and an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, (formerly Lombardi Mare), located at 5100 Belt Line Road, Suite 410, subject to the following conditions:

1. The irrigation system in the center shall be repaired prior to the issuance of a Certificate of Occupancy for this proposed use.
2. The applicant shall not use any terms, including the term “club”, or graphic depictions that denote alcoholic beverages in exterior signs.
3. The floor plan shall be revised to indicate a dance floor in front of the stage area.
4. Ratio of food to alcohol shall be set at 40-60.

Councilmember Silver seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner

Voting Nay: None

Absent: None

Item #R8 – Presentation of the City Manager’s proposed General Fund Budget.

No action was taken.

Item #R9 – Presentation of the City Manager’s proposed Hotel Fund Budget.

No action was taken.

Item #R10 – Presentation of staff recommendation regarding services and funding of various non-profit entities.

No action was taken.

Item #R11 – Presentation of Utility Rate Study.

No action was taken.

Item #R12 – Consideration of an Ordinance approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area; Section 62-183, Number of Signs; and Section 62-186, Monument Signs, on application from Two Rows Restaurant and Brewery, located at 17225 Dallas Parkway.

Councilmember Silver moved to duly pass Ordinance No. 003-021 approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area; Section 62-183, Number of Signs; and Section 62-186, Monument Signs, on application from Two Rows Restaurant and Brewery, located at 17225 Dallas Parkway. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R13 – Consideration of an Ordinance approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area, for two separate buildings with two attached signs on each building, on application from Vartec Telecom/Excel, located at 16675 Addison Road and at 4550 Excel Parkway.

Councilmember Mallory moved to duly pass Ordinance No. 003-022 approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area, for two separate buildings with two attached signs on each building, on application from Vartec Telecom/Excel, (1) for signage on the north and east façades of the building located at 16675 Addison Road. Councilmember Silver seconded. The motion carried.

Voting Aye: Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: Wheeler
Absent: None

(2) for signage on the north and east facades with a 36" logo on the building located at 4550 Excel Parkway. Councilmember Chow seconded. The motion carried.

Voting Aye: Chow, Hirsch, Mallory, Silver, Turner
Voting Nay: Wheeler, Niemann
Absent: None

Councilmember Niemann abstained from Item #R14 and was excused from the Council Chamber.

Item #R14 – **PUBLIC HEARING** to consider an Ordinance denying TXU Gas Company's request to change rates in the Town of Addison, as a part of the company's statewide gas utility system; providing a requirement for a prompt reimbursement of costs incurred by the town; finding that the meeting at which this ordinance is passed is open to the public as required by law; and providing for notice of this ordinance to TXU Gas Company; providing for an effective date.

Councilmember Silver moved to pass Ordinance No. 003-023 denying TXU Gas Company's request to change rates in the Town of Addison, as a part of the company's statewide gas utility system; providing a requirement for a prompt reimbursement of costs incurred by the town; finding that the meeting at which this ordinance is passed is

open to the public as required by law; and providing for notice of this ordinance to TXU Gas Company; providing for an effective date. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Silver, Turner
Voting Nay: None
Absent: None
Abstaining: Niemann

Councilmember Niemann returned to the Council Chamber.

Item #R15 – Consideration of a Resolution authorizing the City Manager to enter into a contract in the amount of \$104,320.00 with Insituform Technologies for trenchless internal lining of sanitary sewer lines.

Councilmember Turned moved to duly pass Resolution No. R03-077 authorizing the City Manager to enter into a contract in the amount of \$104,320.00 with Insituform Technologies for trenchless internal lining of sanitary sewer lines. Councilmember Niemann seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R16 – Consideration of an Ordinance authorizing parking along the street right-of-way in the 4100 block of Centurion Way for a defined time period.

Councilmember Chow moved to pass Ordinance No. 003-024 authorizing parking along the street right-of-way in the 4100 block of Centurion Way for a defined time period. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R17 – Consideration of a Resolution approving a Change Order in the amount of \$31,998.00 to a previously approved contract with Abstract Construction Company for the construction of the Arts and Events District.

Councilmember Turner moved to duly pass Resolution No. R03-078 approving a Change Order in the amount of \$31,998.00 to a previously approved contract with Abstract Construction Company for the construction of the Arts and Events District. Councilmember Silver seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

EXECUTIVE SESSION. At 11:10 p.m. Mayor Wheeler announced that the Council would go into Executive Session to discuss the following items:

Item #ES1 - Closed (executive) session of the City Council, pursuant to Sections 551.071 and 551.072 of the Texas Government Code to deliberate the purchase or value of certain real property and to consult with and seek the advice of the City Attorney in connection with certain pending litigation, to wit: *Town of Addison v. Motel 6 Operating, L.P., et al.*, Cause No. 03-00711-B, Dallas County, Texas.

Item #ES2 - Closed (executive) session of the City Council, pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase or value of certain real property, being a 0.023 acre tract of land, for an easement for permanent right-of-way purposes in connection with the Addison Road widening project.

Item #ES3 – Closed (Executive) session of the City Council, pursuant to Section 551.071 and Section 551.072 of the Texas Government Code to deliberate the purchase or value of certain real property and to consult with and seek the advice of the City Attorney in connection with certain pending litigation, to wit: *Town of Addison v. 4125 Centurion Way, L.P., et al.*, Cause No. 03-2155-C, Dallas County Court at Law No. 3.

The Council came out of **Executive Session** at 11:27 p.m.

Item #R18 – Consideration of a Resolution authorizing the City's Attorney to enter into an agreed judgment in *Town of Addison v. Motel 6 Operating, L.P., et al.*, Cause No. 03-00711-B, Dallas County, Texas.

Councilmember Mallory moved to duly pass Resolution No. R03-079 authorizing the City's Attorney to enter into an agreed judgment in *Town of Addison v. Motel 6 Operating, L.P., et al.*, Cause No. 03-00711-B, Dallas County, Texas. Councilmember Niemann seconded. The motion Carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R19 – Consideration of a Resolution approving the purchase of an easement for permanent right-of-way purposes in a 0.023 acre tract of land generally located at 15201 Addison Road, and approving an easement agreement in connection with such purchase.

Councilmember Mallory moved to duly pass Resolution No. R03-080 approving the purchase of an easement for permanent right-of-way purposes in a 0.023 acre tract of land generally located at 15201 Addison Road, and approving an easement agreement in connection with such purchase. Councilmember Niemann seconded. The motion carried.

Voting Aye: Wheeler, Chow, Hirsch, Mallory, Niemann, Silver, Turner

Voting Nay: None

Absent: None

There being no further business before the Council, the meeting was adjourned.

Mayor

Attest:

City Secretary